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8 **UNITED STATES DISTRICT COURT**
9 **WESTERN DISTRICT OF WASHINGTON**
10 **AT TACOMA**

11 DISCOVERORG DATA, LLC,

12 Plaintiff,

13 v.

14 FEATHERCAP, INC.,

15 Defendant.

Case No. 3:19-cv-05632

COMPLAINT

JURY DEMAND

16 Plaintiff DiscoverOrg Data, LLC (“DiscoverOrg”), for its complaint against
17 Feathercap, Inc. (“Feathercap”), alleges as follows:

18 At its core, this case is very straightforward. DiscoverOrg is in the business of
19 providing highly-accurate information for business-to-business sales and marketing.
20 DiscoverOrg invests millions of dollars annually to build and maintain this database, and
21 DiscoverOrg’s customers pay tens and hundreds of thousands of dollars per year to
22 access this information. Feathercap stole access to DiscoverOrg information (about
23 15,000 records) and used it for its own sales and marketing, without paying DiscoverOrg
24 any licensing fees. Of course, if everyone used DiscoverOrg’s data without paying for it,
25 DiscoverOrg would not exist, nor would the compilation of data that Feathercap stole.
26 Feathercap has enjoyed a free ride, not just on DiscoverOrg, but on the approximately

1 4,000 DiscoverOrg clients who pay for the right to access and use this highly-valuable
2 information.

3 **PARTIES**

4 1. DiscoverOrg is a Delaware limited liability company with its principal place of
5 business in Vancouver, Washington.

6 2. Feathercap is a Delaware corporation with a principal place of business in the
7 State of California and does business in the State of Washington.

8 **JURISDICTION AND VENUE**

9 3. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1332, as the
10 parties are completely diverse in citizenship and the amount in controversy exceeds
11 \$75,000, and separately under 18 U.S.C. §§ 1331 and 1338(a) and (b) because
12 DiscoverOrg asserts claims arising under Federal Law. This court also has supplemental
13 jurisdiction for the state law claims pursuant to 28 U.S.C. § 1367.

14 4. This court has personal jurisdiction over Feathercap, and venue is properly
15 laid in this district court pursuant to 28 U.S.C. § 1391 and 28 U.S.C. § 1400(a), in that
16 Feathercap transacts business in this state and has committed tortious acts within this
17 state. See RCW 4.28.185. Additionally, on information and belief, Feathercap advertises
18 its products and services within the State of Washington, directs its products and services
19 through the stream of commerce into the State of Washington, or otherwise has sufficient
20 minimum contacts with the State of Washington so as to be subject to the personal
21 jurisdiction of its courts.

22 **FACTS AND ALLEGATIONS**

23 **A. DiscoverOrg's Database**

24 5. DiscoverOrg is a provider of business-to-business ("b2b") marketing data,
25 which it delivers to clients via a password-secured, online graphical user interface.

26 DiscoverOrg uses technology, computers, and electronic communication systems to

1 provide subscribers with access to its database of marketing information profiling
2 businesses in the United States and globally. DiscoverOrg has been recognized as an
3 industry leader in sales and marketing intelligence. The depth, breadth, and accuracy of
4 DiscoverOrg's database is unrivaled in the marketplace.

5 6. DiscoverOrg has invested tens of millions of dollars to develop and maintain
6 the infrastructure and content of its database and ensure that it is of the highest quality.
7 DiscoverOrg employs approximately 200 research analysts focused on building,
8 managing, and updating DiscoverOrg's database, in order to deliver timely and
9 comprehensive data to DiscoverOrg's clients. DiscoverOrg has expended substantial
10 labor, time, resources, effort, and money to select, gather, collect, organize, generate,
11 arrange, and disseminate the timely and continuously updated information DiscoverOrg
12 provides in its database. In total, DiscoverOrg employs more than 450 people and has
13 made significant investment in developing and purchasing software, hardware, and other
14 equipment to continuously update and support the accuracy and comprehensiveness of its
15 database. DiscoverOrg's database exhibits DiscoverOrg's decisions and input as to the
16 selection, arrangement, orchestration, compilation, and presentation of the organizational
17 charts, contacts, and other information collected and assembled by DiscoverOrg's
18 analysts.

19 7. DiscoverOrg's database is valuable to companies like Feathercap, who benefit
20 from the use of detailed information in their efforts to market their own products and
21 services. DiscoverOrg provides licensed, subscription access to its database to
22 approximately 4,000 companies, who pay licensing fees for the right to access and use
23 DiscoverOrg's database.

24 8. The value of DiscoverOrg's database is related to and dependent upon its
25 proprietary and non-public nature. DiscoverOrg takes steps to protect the security of the
26 information contained in its database. For example, DiscoverOrg limits access to its

1 database to only authorized users pursuant to restrictive license agreements.

2 DiscoverOrg's database is password-protected, and DiscoverOrg utilizes mail monitoring
3 and list protection to further secure and ensure the integrity of DiscoverOrg's database.

4 **B. Feathercap's Wrongful Conduct**

5 9. Instead of acquiring a license from DiscoverOrg, Feathercap, without
6 authorization from DiscoverOrg, gained access to DiscoverOrg's proprietary information
7 and used it to sell Feathercap products. If everyone did what Feathercap did,
8 DiscoverOrg would not exist as a business, and the information misappropriated by
9 Feathercap would not be available to anyone. Feathercap has sought to enjoy a free ride
10 off of the license fees paid by DiscoverOrg's legitimate customers, whose payments allow
11 DiscoverOrg to continue to provide this service and make the investments needed to
12 maintain DiscoverOrg's database and related infrastructure.

13 10. From March 2019 through June of 2019, Feathercap used DiscoverOrg's
14 proprietary information and used it to sell Feathercap products and services. During that
15 period, Feathercap accessed at least 15,000 records from DiscoverOrg's database. The
16 information wrongfully accessed was commercially exploited by Feathercap for its sales
17 and marketing purposes, including conducting email marketing campaigns using the
18 misappropriated information.

19 11. Feathercap acted knowingly, intentionally, and willfully in accessing and using
20 DiscoverOrg's proprietary information without authorization and without compensating
21 DiscoverOrg. Feathercap's unauthorized use of DiscoverOrg's proprietary information
22 has furthered Feathercap's financial interest by facilitating the identification and contact
23 of potential new customers and business opportunities, among other uses, and Feathercap
24 has wrongfully profited therefrom.

25 12. Feathercap knew that DiscoverOrg's data was non-public and proprietary and
26 subject to restrictive license agreements. Nevertheless, Feathercap knowingly accessed

1 and used DiscoverOrg data for its own sales and marketing purposes. Feathercap did so to
2 gain the commercial benefit of DiscoverOrg's data without compensating DiscoverOrg.
3 Feathercap has wrongfully profited from these activities and has harmed DiscoverOrg by
4 diminishing the market value of DiscoverOrg's database.

5 13. At all relevant times, Feathercap had a duty to train and supervise the conduct
6 of its employees and agents acting on its behalf. Feathercap was negligent in failing to
7 train and monitor its employees and agents adequately and in failing to have appropriate
8 policies in place regarding unauthorized access to computer systems, communication,
9 storage networks, and copyrighted works and trade secrets and/or failing to enforce such
10 policies.

11 14. All actions herein alleged to have been done by Feathercap were, upon
12 information and belief, performed by employees or other agents of Feathercap within the
13 scope of their employment or other agency relationship with Feathercap, on Feathercap's
14 behalf, and for Feathercap's benefit.

15 **FIRST CLAIM FOR RELIEF**

16 **(Theft of Trade Secrets - 18 U.S.C. § 1832 *et seq.*)**

17 15. DiscoverOrg incorporates herein by reference the allegations in paragraphs 1
18 through 14.

19 16. DiscoverOrg gathers, organizes, generates, collects, and assembles in-depth,
20 commercially-valuable information (including reporting structures, contact information,
21 and other data) expending substantial time, labor, and expense. DiscoverOrg's database
22 and the information contained therein comprise a compilation of business information.
23 Information from DiscoverOrg's database is used in interstate commerce.

24 17. The compilation of information in DiscoverOrg's database derives
25 independent economic value from not being generally known to, and not being readily
26 ascertainable through proper means by, those who are not licensed by DiscoverOrg to

1 access the database. Non-licensees can obtain economic value from the disclosure or use
2 of the information in DiscoverOrg's database.

3 18. DiscoverOrg has taken reasonable measures to protect and keep the
4 information in its database secret by limiting access to those customers who agree to the
5 terms of the access in the licensing agreement, and requiring password authentication to
6 access the database through its secure online portal. DiscoverOrg also does its best to
7 monitor access to the database and use of its information to further ensure its security.

8 19. Feathercap used improper means, including theft, to obtain access to and
9 acquire information from DiscoverOrg's database. Feathercap knew or had reason to
10 know at the time it obtained, and at the times it used, DiscoverOrg information that such
11 information was obtained from persons or entities owing DiscoverOrg a duty to maintain
12 the secrecy thereof.

13 20. Feathercap received and possessed information from DiscoverOrg's
14 proprietary database that Feathercap knew to have been converted without authorization.

15 21. Feathercap willfully and maliciously misappropriated DiscoverOrg's trade
16 secrets by using the information contained in DiscoverOrg's proprietary computer
17 systems for Feathercap's financial gain without authorization.

18 22. DiscoverOrg has been damaged by Feathercap's actions through the lost
19 opportunity to realize licensing revenue and the diminution of the market value of its
20 proprietary information. Feathercap has been unjustly enriched by the use of valuable
21 marketing and sales information without paying compensation and through the
22 consummation of business transactions that would not have occurred without use of the
23 stolen information. DiscoverOrg would, in the alternative, be entitled to a reasonable
24 royalty for Feathercap's use of the information.

25 23. By reason of the foregoing, Feathercap is liable to DiscoverOrg for damages
26 and unjust enrichment or a reasonable royalty, in an amount to be proven at trial.

DiscoverOrg is also entitled to exemplary damages and its reasonable attorney fees. Finally, DiscoverOrg is entitled to an injunction preventing Feathercap from continuing to possess or use information obtained from DiscoverOrg's database.

SECOND CLAIM FOR RELIEF

(Misappropriation of Trade Secrets - RCW 19.108.010 *et seq.*)

24. DiscoverOrg incorporates herein by reference the allegations in paragraphs 1 through 23.

25. By reason of the foregoing, Feathercap is liable to DiscoverOrg for damages and unjust enrichment or a reasonable royalty, in an amount to be proven at trial.

DiscoverOrg is also entitled to exemplary damages and its reasonable attorney fees.

Finally, DiscoverOrg is entitled to an injunction preventing Feathercap from continuing to possess or use information obtained from DiscoverOrg's database.

THIRD CLAIM FOR RELIEF

(Misappropriation)

26. DiscoverOrg incorporates herein by reference the allegations in paragraphs 1 through 25.

27. DiscoverOrg gathers, organizes, generates, collects, and assembles in-depth, commercially-valuable information (including reporting structures, contact information, and other data) expending substantial time, labor, and expense.

28. Feathercap intentionally and without permission, used information from DiscoverOrg's database for its own financial gain, and profited therefrom. Feathercap has taken a "free-ride" on DiscoverOrg's skill, labor, and costly and substantial efforts in creating its commercially-valuable database.

29. Feathercap's actions have damaged DiscoverOrg in the form of lost profits and diminution of the market value of its database. By reason of the foregoing misappropriation of DiscoverOrg's data, Feathercap is liable to DiscoverOrg for

1 compensatory damages including wrongfully derived revenues in an amount to be proven
2 at trial.

3 **FOURTH CLAIM FOR RELIEF**

4 **(Copyright Infringement)**

5 30. DiscoverOrg incorporates herein by reference the allegations in paragraphs 1
6 through 29.

7 31. DiscoverOrg's database is an original work of authorship containing
8 copyrightable subject matter for which copyright protection exists under the Copyright
9 Act. DiscoverOrg has filed for copyright registration with the United States Copyright
10 Office in compliance with 17 U.S.C. § 101 *et seq.* DiscoverOrg's copyright was registered
11 December 27, 2010 with registration number TX0007487999.

12 32. As owner of all right, title, and interest in and to the copyrighted works,
13 DiscoverOrg is entitled to all the exclusive rights and remedies accorded by Section 106 of
14 the Copyright Act to a copyright owner, including the exclusive rights to reproduce the
15 copyrighted works and to sell non-exclusive licenses to those copyrighted works.

16 33. Feathercap has made and used copies of DiscoverOrg's copyrighted material
17 without authorization or license from DiscoverOrg. Feathercap used the copies for
18 Feathercap's financial gain without compensating DiscoverOrg. In doing so, Feathercap
19 has violated DiscoverOrg's exclusive rights of reproduction and distribution.

20 34. At all relevant times, Feathercap had the responsibility and the ability to
21 supervise and monitor the actions its employees and agents, whose actions were
22 performed on its behalf and for its direct financial benefit and were within the scope of
23 their employment for Feathercap.

24 35. With knowledge of the infringing activity, Feathercap induced, caused,
25 facilitated, encouraged, and/or or materially contributed to the infringing conduct.
26

1 particular, Feathercap failed to properly implement and enforce a policy prohibiting such
2 conduct, as would be required of a reasonable entity.

3 45. As a direct and proximate result of Feathercap's negligence, DiscoverOrg has
4 suffered damage in the form of lost profits and diminution of the market value of its
5 database. Feathercap is liable to DiscoverOrg for compensatory damages in an amount to
6 be proven at trial.

7 **PRAYER FOR RELIEF**

8 WHEREFORE, DiscoverOrg prays for the following relief:

- 9 1. Entry of judgment in its favor and against Feathercap on all counts;
- 10 2. Entry of judgment in its favor against Feathercap on all of its Claims for Relief
11 that Feathercap's unlawful conduct was willful and knowing;
- 12 3. As to its First Claim for Relief, its actual damages and unjust enrichment or a
13 reasonably royalty, in an amount to be proven at trial, exemplary damages, and its
14 reasonable attorney fees;
- 15 4. As to its Second Claim for Relief, its actual damages and unjust enrichment or
16 a reasonably royalty, in an amount to be proven at trial, exemplary damages, and its
17 reasonable attorney fees;
- 18 5. As to its Third Claim for Relief, compensatory damages in an amount to be
19 proven at trial;
- 20 6. As to its Fourth Claim for Relief, actual damages in an amount to be proven at
21 trial or statutory damages, plus costs including reasonable attorney fees;
- 22 7. As to its Fifth Claim for Relief, the amount to be proven at trial by which
23 Feathercap has been unjustly enriched;
- 24 8. As to its Sixth Claim for Relief, compensatory damages in an amount to be
25 proven at trial;
- 26 9. Exemplary damages for Feathercap's willful and knowing infringement, theft,

and misappropriation;

10. Immediate and permanent injunctive relief enjoining Feathercap from using DiscoverOrg’s trade secrets, copyrighted materials, and misappropriated products or services;

11. An award of DiscoverOrg’s costs of suit, including the costs of experts and reasonable attorneys’ fees as permitted by law, for example pursuant to 18 U.S.C. § 1832 *et seq.*, RCW 19.108 *et seq.*, and 17 U.S. Code § 505;

12. An award of pre- and post-judgment interest; and

13. Such other relief as the Court may deem just and equitable.

Dated: July 11, 2019

Respectfully submitted,

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